

ESTTA Tracking number: **ESTTA657625**

Filing date: **02/24/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Unique Photo Inc.		
Entity	Corporation	Citizenship	New Jersey
Address	123 US Highway 46 Fairfield, NJ 07004 UNITED STATES		

Attorney information	Daniel P. Laine Lerner, David, Littenberg, Krumholz & Mentlik 600 South Avenue West Westfield, NJ 07090 UNITED STATES dlaine@ldlkm.com, litigation@ldlkm.com Phone:908 654 5000
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### Applicant Information

Application No	79153014	Publication date	02/03/2015
Opposition Filing Date	02/24/2015	Opposition Period Ends	03/05/2015
International Registration No.	1218382	International Registration Date	05/13/2014
Applicant	Sanjay Agarwal Aegis Vision Limited London, W7 2QE UNITED KINGDOM		

### Goods/Services Affected by Opposition

Class 009. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Mobile phone cases; camera cases; laptop cases, including bags, sleeves and pouches specially adapted for laptops; cases adapted for electronic equipment, namely, cases adapted for electronic diaries and portable media players; mobile phone accessories, namely, lanyards, pendants and charms all specially adapted for mobile phones; hands free kits for mobile phones; battery chargers for mobile phones; headphones; audio speakers; speakers, namely, bass speakers, loud speakers; audio equipment, namely, speakers; car audio speakers; personal stereos; stereo apparatus, namely, stereo tuners; stereo amplifiers; stereos, namely, stereo receivers; computer docking stations; portable music player docking stations; mobile phone docking stations; MP3 player docking stations; mobile radio transmitting apparatus; earphones; sound generation apparatus, namely, portable media players; sound amplification apparatus, namely, amplifiers; sound reproduction apparatus; sunglasses and sunglasses cases

### Grounds for Opposition


Priority and likelihood of confusion	Trademark Act section 2(d)
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## Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	1987293	Application Date	09/12/1995
Registration Date	07/16/1996	Foreign Priority Date	NONE
Word Mark	I'M UNIQUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1995/06/00 First Use In Commerce: 1995/06/00 mail order catalog, retail store services, and wholesale distributorships featuring photographic equipment, photographic supplies, imaging equipment, film projectors, video tape, imaging supplies and binoculars		

U.S. Registration No.	2335605	Application Date	04/06/1999
Registration Date	03/28/2000	Foreign Priority Date	NONE
Word Mark	UNIQUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1977/08/00 First Use In Commerce: 1977/08/00 RETAIL STORE SERVICES AND MAIL ORDER CATALOG SERVICES BOTH FEATURING PHOTOGRAPHIC EQUIPMENT AND SUPPLIES, DARK ROOM EQUIPMENT AND SUPPLIES, BINOCULARS, FILM PROJECTORS, AND BATTERIES		

U.S. Registration No.	3048697	Application Date	01/13/2004
Registration Date	01/24/2006	Foreign Priority Date	NONE
Word Mark	UNIQUE DIRECT		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2003/12/01 First Use In Commerce: 2003/12/01 Mail order catalog services featuring batteries, cigarette lighters and accessories, umbrellas, health and beauty aids, over-the-counter medicines, food, dolls, toys, locks, apparel, light bulbs, flashlights, greeting cards, envelopes, and writing implements

U.S. Registration No.	2033558	Application Date	10/02/1995
Registration Date	01/28/1997	Foreign Priority Date	NONE
Word Mark	UNIQUE PHOTO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 042. First use: First Use: 1968/12/00 First Use In Commerce: 1968/12/00 mail order catalog services featuring photographic equipment, photographic supplies, imaging equipment, imaging supplies, film projectors, video tapes, and binoculars		

U.S. Registration No.	3704895	Application Date	04/01/2009
Registration Date	11/03/2009	Foreign Priority Date	NONE
Word Mark	UNIQUE PHOTO		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 1996/11/00 First Use In Commerce: 2008/04/00 RETAIL STORE, RETAIL ON LINE AND RETAILCATALOG SERVICES FEATURING A WIDE VARIETY OF CONSUMER GOODS OF OTHERS Class 040. First use: First Use: 1996/11/00 First Use In Commerce: 2008/04/00 PHOTOGRAPHIC FILM AND DIGITAL IMAGE PROCESSING

U.S. Registration No.	1988699	Application Date	09/12/1995
Registration Date	07/23/1996	Foreign Priority Date	NONE

Word Mark	UNIQUE PHOTO
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 042. First use: First Use: 1968/12/00 First Use In Commerce: 1968/12/00 mail order catalog and retail store services featuring photographic equipment, photographic supplies, imaging equipment, film projectors, video tape, imaging supplies and binoculars
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U.S. Registration No.	2920948	Application Date	03/31/2004
Registration Date	01/25/2005	Foreign Priority Date	NONE

Word Mark	UNIQUE TOTS
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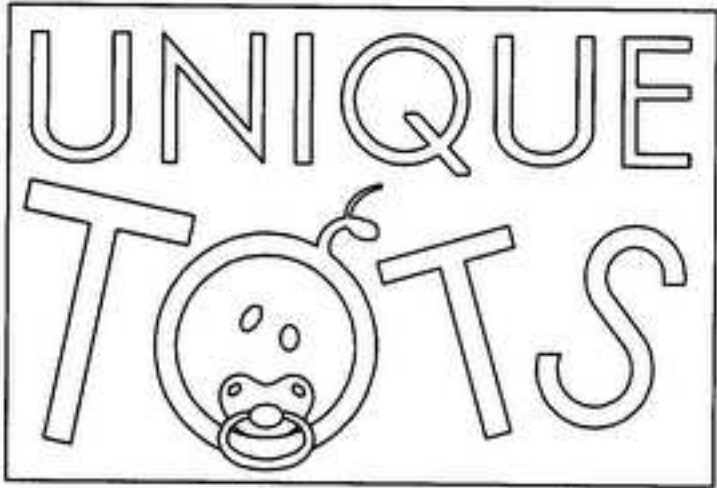
Design Mark	
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Description of	NONE
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Mark	
Goods/Services	Class 035. First use: First Use: 2004/03/15 First Use In Commerce: 2004/03/15 Wholesale distributorship featuring baby bottles, baby nipples and tops therefor, plates, cups, bowls, eating utensils, cleaning supplies, pacifiers, bibs, rattles, teethingers, toys, mobiles, lamps, night lights, switch plates for lights, blankets, gift boxes, rulers, totes, diaper bags, dolls, wash cloths, medicine droppers, aspirators, hair bands, hair brushes, combs, window shades, hangers, mittens and towels

U.S. Registration No.	2994632	Application Date	03/30/2004
Registration Date	09/13/2005	Foreign Priority Date	NONE

Word Mark	UNIQUE TOTS
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 035. First use: First Use: 2004/03/15 First Use In Commerce: 2004/03/15 Wholesale distributorship featuring baby bottles, baby nipples and tops therefor, plates, cups, bowls, eating utensils, cleaning supplies, pacifiers, bibs, rattles, teethingers, toys, mobiles, lamps, night lights, switch plates for lights, blankets, gift boxes, rulers, totes, diaper bags, dolls, wash cloths, medicine droppers, aspirators, hair bands, hair brushes, combs, window shades, hangers, mittens and towels
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Attachments	UPHOTO 10.20-064 Notice of Opposition 24-February-2015.pdf(21447 bytes ) 75676746#TMSN.png( bytes ) 78351284#TMSN.png( bytes ) 77704464#TMSN.png( bytes ) 74727972#TMSN.png( bytes ) 78393964#TMSN.png( bytes ) 78393287#TMSN.png( bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Daniel P. Laine/
Name	Daniel P. Laine
Date	02/24/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

UNIQUE PHOTO, INC.,	: Serial No. 79/153014
	:
Opposer,	: Filed: 5/13/2014
	:
v.	: For: UUNIQUE
	:
SANJAY AGARWAL,	: Published: 2/3/2015
	:
Applicant.	: Opposition No. _____
_____	X

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**NOTICE OF OPPOSITION**

Unique Photo Inc., a corporation organized and existing under the laws of the State of New Jersey and having an office and place of business at 123 US Highway 46, Fairfield, New Jersey 07004 ("Opposer"), believes it will be damaged by the registration of the mark shown in Application Serial No. 79/153014 in International Class 9 (the "Application") and hereby opposes registration of such mark in International Class 9. The specific grounds for such opposition are as follows:

1. Opposer owns and uses the marks I'M UNIQUE, UNIQUE PHOTO, and UNIQUE PHOTO AND DESIGN in connection with, *inter alia*, services for photographic equipment, imaging equipment and supplies, UNIQUE in connection with, *inter alia*, services for photographic equipment, dark room equipment and supplies, UNIQUE DIRECT, in connection with catalog services, UNIQUE TOTS and UNIQUE TOTS AND DESIGN in

connection with, *inter alia*, wholesale distributorship of products for infants in interstate commerce in the United States.

2. Opposer has been using the marks UNIQUE PHOTO and UNIQUE PHOTO AND DESIGN since at least as early as December, 1969, long before Sanjay Agarwal (the "Applicant") filed the Application for registration of the UUNIQUE mark on May 13, 2014.

3. Opposer is the owner of and uses, *inter alia*, the following United States Trademark Registrations:

Reg. No.	Trademark	Registered	First Used	Goods/Services
1,987,293	I'M UNIQUE	July 16, 1996	June 1995	Mail order catalog, retail store services, and wholesale distributorships featuring photographic equipment, photographic supplies, imaging equipment, film projectors, video tape, imaging supplies and binoculars
2,335,605	UNIQUE	March 28, 2000	August 1977	Retail store services and mail order catalog services both featuring photographic equipment and supplies, dark room equipment and supplies, binoculars, film projectors, and batteries
3,048,697	UNIQUE DIRECT	January 24, 2006	December 2003	Mail order catalog services featuring batteries, cigarette lighters and accessories, umbrellas, health and beauty aids, over-the-counter medicines, food, dolls, toys, locks, apparel, light bulbs, flashlights, greeting cards, envelopes, and writing implements.
2,033,558	UNIQUE PHOTO	January 28, 1997	December 1968	Mail order catalog services featuring photographic equipment, photographic supplies, imaging equipment, imaging supplies, film projectors, video tapes, and binoculars
3,704,895	UNIQUE PHOTO	November 3, 2009	April 2008	Retail store, retail on line and retail catalog services featuring a wide variety of consumer goods of others



Reg. No.	Trademark	Registered	First Used	Goods/Services
1,988,699	UNIQUE PHOTO AND DESIGN	July 23, 1996	December 1968	Mail order catalog and retail store services featuring photographic equipment, photographic supplies, imaging equipment, film projectors, video tape, imaging supplies and binoculars
2,920,948	UNIQUE TOTS	January 25, 2005	March 2004	Wholesale distributorship featuring baby bottles, baby nipples and tops therefor, plates, cups, bowls, eating utensils, cleaning supplies, pacifiers, bibs, rattles, teething toys, mobiles, lamps, night lights, switch plates for lights, blankets, gift boxes, rulers, totes, diaper bags, dolls, wash cloths, medicine droppers, aspirators, hair bands, hair brushes, combs, window shades, hangers, mittens and towels
2,994,632	UNIQUE TOTS AND DESIGN	September 13, 2005	March 2004	Wholesale distributorship featuring baby bottles, baby nipples and tops therefor, plates, cups, bowls, eating utensils, cleaning supplies, pacifiers, bibs, rattles, teething toys, mobiles, lamps, night lights, switch plates for lights, blankets, gift boxes, rulers, totes, diaper bags, dolls, wash cloths, medicine droppers, aspirators, hair bands, hair brushes, combs, window shades, hangers, mittens and towels

4. Based on such use, Opposer has obtained extensive and exclusive federal and common law rights in the marks I'M UNIQUE, UNIQUE, UNIQUE DIRECT, UNIQUE PHOTO, UNIQUE PHOTO AND DESIGN, UNIQUE TOTS and UNIQUE TOTS AND DESIGN such that Opposer's business and services associated with the marks have built up substantial good will.

5. Upon information and belief, Applicant made no use of the UUNIQUE mark in commerce.

6. Applicant's UUNIQUE mark so resembles Opposer's I'M UNIQUE, UNIQUE, UNIQUE DIRECT, UNIQUE PHOTO, UNIQUE PHOTO AND DESIGN, UNIQUE TOTS and UNIQUE TOTS AND DESIGN marks as to result in a likelihood of confusion in International Class 9.

7. Applicant intends to use its UUNIQUE mark for mobile phone cases; camera cases; laptop cases, including bags, sleeves and pouches specially adapted for laptops; cases adapted for electronic equipment, namely, cases adapted for electronic diaries and portable media players; mobile phone accessories, namely, lanyards, pendants and charms all specially adapted for mobile phones; hands free kits for mobile phones; battery chargers for mobile phones; headphones; audio speakers; speakers, namely bass speakers, loud speakers; audio equipment, namely speakers; car audio speakers; personal stereos; stereo apparatus, namely stereo tuners; stereo amplifiers; stereos, namely, stereo receivers; computer docking stations; portable music player docking stations; mobile phone docking stations; MP3 player docking stations; mobile radio transmitting apparatus; earphones; sound generation apparatus, namely, portable media players; sound amplification apparatus, namely amplifiers; sound reproduction apparatus; sunglasses and sunglasses cases in International Class 9. The goods for which Applicant seeks registration of the mark UUNIQUE in International Class 9 are in the same or related fields as the goods and services which have been offered by Opposer under its marks I'M UNIQUE, UNIQUE, UNIQUE DIRECT, UNIQUE PHOTO, UNIQUE PHOTO AND DESIGN, UNIQUE TOTS and UNIQUE TOTS AND DESIGN and will result in improper association and confusion between the marks.

8. The UUNIQUE mark, when applied to Applicant's goods in International Class 9, may falsely suggest that Applicant's goods identified with such mark are sold, approved, or

sponsored by the Opposer or that there is some connection between Applicant and Opposer with respect to such products. Applicant's UUNIQUE mark, when applied to Applicant's goods in International Class 9, is likely to cause confusion or mistake or to deceive as to its source and accordingly, the granting of the registration applied for by the Applicant would cause substantial damage and injury to Opposer.

9. If the application here opposed should be granted, statutory rights will be created in Applicant in violation and degradation of the established prior rights of Opposer.

10. Registration in International Class 9 should be refused to Applicant, the newcomer in the field, in order to prevent deception to the public and damage to the business and good will of Opposer.

WHEREFORE, Opposer prays that the opposition be sustained and that the Board deny registration of Application Serial No. 79/153014 in International Class 9.

Please charge the fee of \$300.00 for a Notice of Opposition in one class to our Deposit Account No. 12-1095. The undersigned is authorized to make charges to said deposit account.

Respectfully submitted,

LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK, LLP  
*Attorneys for Opposer*  
600 South Avenue West  
Westfield, New Jersey 07090  
(908) 654-5000

Dated: February 24, 2015

By /Daniel P. Laine/  
DANIEL P. LAINE

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the within:

NOTICE OF OPPOSITION was served upon the following this 24th day of February, 2015, as follows:

**VIA FIRST-CLASS MAIL and  
VIA FEDERAL EXPRESS PRIORITY DELIVERY**

Sanjay Agarwal  
Aegis Vision Limited  
Boundary House, Boston Road  
London, United Kingdom W7 2QE

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/Daniel P. Laine/  
Daniel P. Laine